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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 8, 2000

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS000129

Ex Parte: In the matter of  
Adopting Revisions to the  
Rules Governing Group Self-  
Insurers of Liability Under  
the Virginia Workers'  
Compensation Act

ORDER ADOPTING REGULATION

WHEREAS, by order entered herein June 23, 2000, all interested persons were ordered to take notice that the Commission would enter an order subsequent to August 4, 2000, adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Group Self-Insurers of Liability Under the Virginia Workers' Compensation Act unless on or before August 4, 2000, any person objecting to the adoption of the proposed revisions filed a request for a hearing with the Clerk of the Commission;

WHEREAS, the June 23, 2000, Order also required all interested persons to file their comments to the proposed revisions on or before August 4, 2000;

WHEREAS, as of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission;

WHEREAS, as of the date of this Order, no comments have been filed with the Clerk of the Commission; and

THE COMMISSION, having considered the proposed revisions and the Bureau's recommendation, is of the opinion that the proposed revisions should be adopted;

THEREFORE, IT IS ORDERED THAT:

(1) The revisions to Chapter 370 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Group Self-Insurers of Liability Under the Virginia Workers' Compensation Act," which amend the rules at 14 VAC 5-370-20 and 14 VAC 5-370-100, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective September 30, 2000;

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, including a copy of the attached revised rules, to all group self-insurance associations licensed by the Commission; and

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

CHAPTER 370.

Rules Governing Group Self-Insurers of Liability Under the  
Virginia Workers' Compensation Act.

14 VAC 5-370-20. Definitions.

"Act" means the Virginia Workers' Compensation Act as provided by Title 65.2 of the Code of Virginia.

"Administrator" means the individual, partnership or corporation authorized to serve as a representative of an association and its members in carrying out the policies of the board and managing the association's activities.

"Commission" means State Corporation Commission.

"Common interest" means employers engaged in the same or substantially similar types of activities industry, trade, commerce or profession, including political subdivisions of this Commonwealth. Notwithstanding the foregoing, an employer seeking membership in an association licensed on and before July 1, 2000, has a common interest if the industry, trade, commerce, profession or other business activity of such employer is the same or substantially similar to the business activity of an employer that was a member the association on and before July 1, 2000. If an association is licensed by the Commission, different businesses which are owned or controlled by a member of the association are eligible for membership in such association

"Contributions" means the amount of payments required of each member in order to fund the association's obligations under the Act.

"Employer" shall have the definition provided by § 65.2-101 of the Code of Virginia.

"Group self-insurance association" or "association" means an association organized by two or more employers having a common interest that have entered into agreements to pool their liabilities under the Virginia Workers' Compensation Act.

"Indemnity agreement and power of attorney" means the written agreement executed by each member of the association in which each member (i) agrees to assume and discharge, jointly and severally, any liability under the Act of any and all members party to such agreement and (ii) grants the administrator power of attorney to act for and bind the members in all transactions relating to or arising out of the operations of the association.

"Member" or "member in good standing" means an employer party to an indemnity agreement for membership in a group self-insurance association who has been approved in accordance with the requirements of 14 VAC 5-370-50 ~~of this chapter~~.

"Members' supervisory board," or "board," means the representative body selected by the members to be responsible for holding and managing the assets and directing the affairs of the association and for assuring that the association, through its members, is financially sound and able to meet its obligations under the Act.

"Service agent" means any individual, partnership or corporation that may provide services including, but not limited to, claims adjustment, safety engineering, compilation of statistics and the preparation of contribution payment and loss reports, preparation of other required self-insurance reports and the administration of a claims fund.

14 VAC 5-370-100. Responsibilities of members' supervisory board.

The members' supervisory board shall be responsible for holding and managing the assets and directing the affairs of the association and shall be elected in the manner prescribed by the association's governing instruments. At least  $\frac{3}{4}$  of the board must be members of the association, but a supervisory board member shall not be an owner, officer or employee of any service organization, its parent or any of its affiliated companies, under contract with the association. The board shall supervise the finances of the association and the association's operations to the extent necessary to assure conformity with law, this chapter, the members' indemnity agreement and power of attorney, and the association's governing instruments. The members' supervisory board shall take all necessary precautions to safeguard the assets of the association, including, but not limited to, the following:

1. Monitoring the financial condition of each member of the association (unless proof of financial condition is not required under 14 VAC 5-370-40 A 3-of this chapter), and doing all other acts necessary to assure that[-] each member continues to be able to fulfill the obligations of membership; and also reporting promptly to the Commission any grounds for believing that a change in any member's financial condition, withdrawal of a member, or any other circumstances affecting the association's ability to meet its obligations;

2. Designating an administrator to administer the affairs of the association, who shall furnish a fidelity bond with the association as obligee, in an amount sufficient to protect the association against the misappropriation or misuse of any monies or securities. The amount of the bond shall be determined by the Commission and evidence of the bond shall be filed with the

Commission, said bond being one of the conditions required for licensing of the association. The administrator shall not be an owner, officer or employee of any service agent, its parent or any of its affiliated companies, any of which are under contract with the association;

3. Retaining control of all monies collected for the association and the disbursement of such monies by the association. All assets of the association shall remain in the custody of the board or the authorized administrator. However, a claims fund for payment of benefits due and other related expenses may be established for the use of any authorized service agent;

4. Active efforts to collect delinquent accounts resulting from any past due contributions by members. The board shall terminate in the manner provided by § 65.2-804 B of the Code of Virginia any member delinquent for more than 30 days in the payment of any subscription charge or assessment billed to such member;

5. The members' supervisory board or the administrator shall not use any of the monies collected for any purpose unrelated to securing the members' liability under the Act. Further, they shall be prohibited from borrowing any monies from the association or in the name of the association without advising the Commission of the nature and purpose of the loan and obtaining Commission approval;

6. The members' supervisory board shall assure that the office of the administrator of the association and all pertinent records necessary to verify the accuracy and completeness of all reports submitted to the Commission are maintained within this Commonwealth;

7. The members' supervisory board shall ~~require~~ assure that payroll verifications of all members of the associations are ~~conducted~~ completed within 180 days after the close of a plan

year and the board shall require that efforts are made to collect any additional amounts due within 30 days of the completion of each audit; and

8. The members' supervisory board may adopt its own rules and procedures as considered necessary for the operation of the association provided these rules and procedures are not inconsistent with § 65.2-802 of the Code of Virginia and this chapter.